

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 488 (Senator Brooks, *et al.*)
 Education, Energy, and the Environment

Election Law - Electronic Ballot Return System - Study and Request for Proposals

This bill requires the Department of Legislative Services (DLS), in consultation with experts representing the disability rights and military communities, to complete a study on the creation of an electronic ballot return system. By December 1, 2023, DLS must report its findings and recommendations to the General Assembly. By January 1, 2024, the State Board of Elections (SBE) must issue a request for proposals (RFP) for an electronic ballot return system. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures increase by at least \$315,000 in FY 2024. Reimbursable revenues and expenditures increase by \$15,000 in FY 2024.

| (in dollars) | FY 2024 | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
|----------------|-------------|---------|---------|---------|---------|
| ReimB. Rev. | \$15,000 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | \$315,000 | \$0 | \$0 | \$0 | \$0 |
| ReimB. Exp. | \$15,000 | \$0 | \$0 | \$0 | \$0 |
| Net Effect | (\$315,000) | \$0 | \$0 | \$0 | \$0 |

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The study must include:

- the impact on voters with disabilities and absent uniformed services voters and overseas voters, as defined in the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), of requiring ballots delivered electronically to be returned in paper form;
- best practices for accessibility for electronic return of ballots;
- best practices for securing an electronic ballot return system;
- the integration of an electronic ballot return system with the State’s existing election infrastructure;
- which voters are eligible to return ballots electronically in states where electronic ballot return is authorized;
- the mechanism for voters to opt in to electronic ballot return;
- the cost of implementing an electronic ballot return system; and
- any changes to the Election Law Article that are necessary to implement electronic ballot return.

Current Law:

“Absent Uniformed Services Voter” and “Overseas Voter”

Under UOCAVA, “absent uniformed services voter” means (1) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote; (2) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; and (3) a spouse or dependent of a member of a uniformed service or the merchant marine who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

“Overseas voter” means (1) an absent uniformed services voter who, by reason of active duty or service is absent from the United States on the date of the election involved; (2) a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or (3) a person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

Absentee (Mail-in) Voting

Under State law, a voter may request an absentee ballot by completing and submitting (1) the SBE approved absentee ballot application; (2) a form provided under federal law; (3) a written request that includes the voter's name, residence address, and signature, and the address to which the ballot is to be mailed, if different from the residence address; or (4) the accessible online absentee ballot application provided by SBE.

If the applicant qualifies to vote by absentee ballot, the local board of elections must provide the ballot by one of the following methods requested by the voter: (1) mail; (2) facsimile transmission; (3) the Internet; or (4) by hand during an in-person transaction. The voter may return the ballot by (1) mailing it, postmarked on or before Election Day; (2) depositing it into a ballot drop box before the polls close on Election Day; or (3) delivering it in person to an early voting center or to the local board of elections or an Election Day polling place by the close of polls on Election Day.

An absentee ballot that is sent by mail must be enclosed in specially printed envelopes, the form and content of which must be prescribed by SBE, and the return envelope must include prepaid postage. When voted and returned to the local board of elections, an absentee ballot must be enclosed in a specified envelope that includes an oath prescribed by SBE. If an absentee ballot is sent by the Internet or facsimile transmission, the local board must provide the voter with an envelope template, the oath prescribed by SBE, and instructions for marking and returning the absentee ballot.

State Fiscal Effect: General fund expenditures increase by at least \$315,000 in fiscal 2024, consisting of costs for SBE to hire a third-party project team to assist with the production of the RFP (\$300,000) and costs for the Department of Information Technology (DoIT) to provide oversight of the RFP development (\$15,000). The estimate for the third-party project team is based on SBE's experience with contracts for the preparation of an RFP for a new voting system and the Maryland Campaign Reporting Information System. DoIT operates largely as a fee-for-service agency, meaning that it charges State agencies for the services it provides to them. As such, reimbursable fund revenues and expenditures for DoIT increase correspondingly with SBE's RFP oversight costs.

Expenditures may further increase in fiscal 2024, to the extent DLS needs to hire a consultant to assist with the study; however, the extent of the need for a consultant cannot be reliably determined at this time.

Because the bill only requires SBE to issue an RFP, this estimate does not account for costs incurred after the issuance of the RFP to procure and implement an electronic ballot return system.

Additional Comments: The National Conference of State Legislatures indicates that 31 states and the District of Columbia allow certain voters – typically military or overseas voters, or voters with disabilities – to return voted absentee ballots electronically, via fax, email, or online portal.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 645 (Delegate Feldmark, *et al.*) - Ways and Means.

Information Source(s): Maryland State Board of Elections; National Conference of State Legislatures; Department of Legislative Services

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